

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DAVID MCSHAN,

Plaintiff,

v.

**Civil Action 2:19-cv-710
Judge Algenon L. Marbley
Magistrate Judge Kimberly A. Jolson**

MICHAEL J. HUNTER, et al.,

Defendants.

REPORT AND RECOMMENDATION

This matter is before the Undersigned on Plaintiff's September 16, 2019 letter in which he represents that he is "compelled to withdraw the suit against the defendants for now until [he] is able to sit down face to face with counsel." (Doc. 16). On September 10, 2019, the Court issued an Order informing Plaintiff that it "construes Plaintiff's letter as a Notice of Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i)" and instructed Plaintiff to "notify the Court on or before September 20, 2019 if he has any objection to the Court construing his letter accordingly." (Doc. 17). The time for Plaintiff to object has passed without objection. Consistent with its earlier Order, the Undersigned construes Plaintiff's September 6, 2019 letter (Doc. 16) as a Notice of Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). It is **RECOMMENDED** that the Clerk be directed to terminate this case accordingly.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed finding or recommendations to which objection is made, together with supporting

authority for the objection(s). A District Judge of this Court shall make a de novo determination of those portions of the Report or specific proposed findings or recommendations to which objection is made. Upon proper objection, a District Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the district judge review the Report and Recommendation de novo, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: October 21, 2019

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE